

HOUSE BILL 2660

By Hackworth

AN ACT to amend Tennessee Code Annotated, Title 8,  
Chapter 34; Title 8, Chapter 35 and Title 8,  
Chapter 36, relative to mandatory retirement age.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-34-101, is amended by inserting the following language as new, appropriately numbered subsections:

( ) "Emergency medical dispatcher" or "(EMD)" means a person in the employ of a political subdivision participating under chapter 35, part 2 of this title, who is a member of the EMS department or agency of such political subdivision; is trained and certified as an EMD pursuant to title 68, chapter 140, part 5; and is actively engaged in EMS work for such department or agency;

( ) "Emergency medical services" or "(EMS)" means the services utilized in responding to the perceived need for immediate medical care in order to prevent loss of life or aggravation of illness or injury;

( ) "Emergency medical technician" or "(EMT)" means a person in the employ of a political subdivision participating under chapter 35, part 2 of this title, who is a member of the EMS department or agency of such political subdivision; is trained and licensed as an EMT pursuant to title 68, chapter 140, part 5; and who is actively engaged in EMS work for such department or agency;

( ) "Emergency medical technician-paramedic" or "(EMT-P)" means a person in the employ of a political subdivision participating under chapter 35, part 2 of this title, who is a member of the EMS department or agency of such political subdivision; is trained and licensed as an EMT-P pursuant to title 68, chapter 140, part 5; and who is actively engaged in EMS work for such department or agency;

SECTION 2. Tennessee Code Annotated, Section 8-36-205(a), is amended by adding the following language as a new, appropriately designated subdivision:

(4) A mandatory age requirement shall also apply for members who are employed as emergency medical technicians (EMT's), emergency medical technician-paramedics (EMT-P's), or emergency medical dispatchers (EMD's) with a political subdivision participating in the Tennessee consolidated retirement system, or who have been transferred from such a position to a supervisory or administrative position within the emergency medical services (EMS) department or agency of such political subdivision; provided the political subdivision has adopted a mandatory retirement age requirement pursuant to this subdivision (a)(4), and provided that the mandatory retirement of any such member does not violate the Age Discrimination in Employment Act. In cases of doubt, the political subdivision shall determine whether the member is employed in a position requiring the mandatory retirement of such member under the provisions of this subdivision (a)(4). In making any such determination, the political subdivision shall apply the applicable definitions contained in chapters 34-37 of this title and in the Age Discrimination in Employment Act. Any political subdivision participating in the retirement system may establish a mandatory retirement age requirement for all its EMT's, EMT-P's, and EMD's and for all its employees who have been transferred from the position of a EMT, EMT-P, or EMD to a supervisory or administrative position within the EMS department or agency; provided that:

(A) The terms and conditions of the requirement shall be the same for all such employees within its employ;

(B) The mandatory age requirement shall not be less than sixty (60) years of age;

(C) Each such employee shall be retired on the first day of the month following the month in which the employee attains the age requirement established by the political subdivision;

(D) If the mandatory age requirement established by the political subdivision is less than the age requirement for receipt of old age and survivors benefits under Title II of the Federal Social Security Act (42 U.S.C. 401-425), each such employee shall be entitled to the supplemental bridge benefit established pursuant to § 8-36-211; and

(E) The chief governing body of the political subdivision passes a resolution authorizing the establishment of the mandatory retirement age requirement. If the mandatory age requirement established by the political subdivision is less than the age requirement for receipt of old age and survivors benefits under Title II of the Federal Social Security Act, then the political subdivision must first authorize and pay for the cost of an actuarial study to determine the liability associated with the granting of the supplemental bridge benefit. All costs associated with providing the supplemental benefit shall be paid by the political subdivision and not by the state.

Notwithstanding any provision of this section to the contrary, any member employed in a position requiring mandatory retirement under the provisions of this subdivision (a)(4) shall be retired on the first day of the month following the month in which the member attains the age requirement established by the political subdivision under this subdivision (a)(4), unless the respective political subdivision determines that such member serves in a supervisory or administrative position which requires less than fifty percent (50%) of the member's duties to be involved in day-to-day EMS activities. Upon such determination by the respective political subdivision, the member may

continue in service until the first day of the month following the month in which the member reaches the age requirement for receipt of old age and survivors benefits under Title II of the Federal Social Security Act (42 U.S.C. 401-425); provided, that such member signs a consent form whereon the member acknowledges that by continuing in service the member forfeits any rights to retirement benefits, including the supplemental bridge benefit provided for in § 8-36-211, during the period of the member's continued service. Such form must be filed with the retirement division on or before the first day of the month prior to the month in which the member attains the age requirement established by the political subdivision under this subdivision (a)(4). Any such member who fails to file the form at the time and in the manner prescribed by this subdivision (a)(4) shall be retired on the first day of the month following the month in which the member attains the age requirement established by the political subdivision under this subdivision (a)(4).

SECTION 3. Tennessee Code Annotated, Section 8-36-211(b), is amended by deleting the language "§ 8-36-205(a)(2)" wherever such language appears and by substituting instead the following:

§ 8-36-205(a)(2) or § 8-36-205(a)(4)

SECTION 4. Tennessee Code Annotated, Section 8-36-211(f), is amended by deleting the language "§ 8-36-205(a)(2)" wherever such language appears and by substituting instead the following:

§ 8-36-205(a)(2) or § 8-36-205(a)(4)

SECTION 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 6. This act shall take effect July 1, 2008, the public welfare requiring it.